

QUESTIONS AND ANSWERS

RFP #77153

1. While the revised paragraph 13 Hold Harmless Clause from the Addendum 1 does improve the language over what was proposed in the original proposal invitation would the County consider the following proposed language in order to preserve the insurability of the clause while also preserving the County's intent? The issue is with regard to the "defend" and "suits, actions, or claims" language which Professional Liability Insurance (PLI) does not insure against. PLI does however protect and provide indemnification against "damages resulting from the Contractor's (Consultant's) negligent acts".

The Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless Stafford County, its officers, and employees (collectively Stafford County), against all damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Consultant's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the Consultant is legally liable.

The County will accept as an exception.

If the County desires to keep the "defend" language in lieu of substituting the above, would the County consider ADDING the below language to the paragraph 13 Hold Harmless Clause?

Notwithstanding the duty to indemnify and hold harmless, the Consultant expressly agrees, after adjudication by a court of competent jurisdiction, to reimburse the County pursuant to this provision for any costs and fees determined by the court to have been reasonably, necessarily and actually incurred by the County in the defense of those claims specifically founded upon the Consultant's negligence, to the extent that the Consultant is responsible for such damages, liabilities and costs on a comparative basis of fault between the Consultant and the County. The Consultant shall not be obligated to indemnify the County for the County's own negligence or for the negligence of others.

No

If the County desires to keep the "including any warranty period" language in lieu of substituting the above in its entirety, would the County consider substituting "including the one-year post Substantial Completion warranty period" in lieu of "including any warranty period" to the paragraph 13 Hold Harmless Clause as found in the addendum 1. By using the word "any" it could capture the 25-year warranty on the roof; or the lifetime warranty on markerboards or doors and we do not believe that is the County's intent as it would outlast the Statute of Limitations on our services.

This is project dependent.

2. Similarly on page 4 under item 11, would the County consider the following proposed language in order to preserve the insurability of the clause while also preserving the County's intent? The issue is with regard to the "defend" and "liability" language which Professional Liability Insurance (PLI) does not insure against. PLI does however protect and provide indemnification against "damages resulting from the Contractor's (Consultant's) negligent acts".

The successful Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless Stafford County, its officers, and employees (collectively Stafford County), against all damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Consultant's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the Consultant is legally liable for injuries and damages to Consultant himself and to Consultant's employees, Agents, Subconsultants and guest, third parties or otherwise, incident to or resulting from any all operations performed by Consultant under the terms of this Agreement.

The County will accept as an exception.

3. Page 16, C – We request the following substitute language:

All services shall be performed in compliance with industry standards and all applicable federal, state, and local laws, codes, ordinances and regulations including those of the Environmental Protection Agency (EPA), Virginia Department of Environmental Quality, Virginia Department of Conservation and Recreation, State Health Department, Virginia USBC, VOSHA (Virginia Occupational Safety and Health Agency) and OSHA rules and regulations.

The County will accept as an exception.

4. Page 38, Item 4, Time and Essence – We request the following substitute language:

The County and A/E are aware that there are many factors outside the A/E's control that may affect the services to be provided under this Agreement. The A/E will perform these services with reasonable diligence and expediency consistent with sound professional practices.

The County will not change.

5. On page 21 of the RFP under item V, E7 would the County consider deleting the term "As-Built" from the first line and substituting "Record"?

No.

6. On page 33 of the RFP under item XI, F would the County consider deletion of "any costs incurred resulting from errors, acts or omissions in the performance of any services furnished.", and substitute "costs associated with the Consultant's negligent acts, errors, and omissions"? This is proposed to preserve the insurability of the requirement.

No.

7. Can we put additional project sheets in the Additional Documents section?

NO. Should have enough pages to show relative experience.